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EXTRAORDINARY

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PART II — Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in the Lok Sabha on 29th July, 2005:—

BILL No. 31 OF 2004

A Bill to make voting compulsory in elections to legislative bodies in the country.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Compulsory Voting Act, 2004.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. It shall be the duty of every citizen, whose name has been registered in the electoral rolls prepared by the Election Commission of India, to cast his vote at every election to the House of the People and Legislative Assembly of a State.

3. (1) There shall be set up adequate number of polling booths at convenient locations, in every constituency of the House of the People or Legislative Assembly, as the case may be.

(2) The polling booths shall be set up in such a way—

(i) that number of voters in each booth shall be equal to the extent possible;

(ii) that the distance between one polling booth and another shall not exceed one kilometer:

Short title,
extent and
commen-
cement.

Duty of
every citizen
to cast his
vote.

Adequate
number of
polling
booths.

Provided that in hilly regions and desert areas polling booths may be set up according to geographical convenience and density of population.

Special
arrangements
for poll staff.

4. There shall be made suitable arrangements enabling the persons deployed in connection with the polling duty to cast their votes.

Special
arrangements
for senior
citizens, etc.

5. There shall be made separate arrangements in every polling booth for senior citizens, physically handicapped persons and women to enable them to cast their votes.

Act not to
apply in
certain cases.

6. The provisions of section 2 shall not apply to:—

(i) patients who have been admitted in hospitals, nursing homes or a place for treatment of any disease with indoor admission facility;

(ii) inmates of any mental asylum or a place where patients with mental disorder are kept;

(iii) physically handicapped persons including blind;

(iv) persons suffering from any ailment, which may prove injurious to their health in case they move out of their place of residence; and

(v) persons deployed in connection with public duty and in transit.

Inclusion of
names of all
eligible voters
in voters' list.

7. The Election Commission shall ensure that the names of all eligible citizens are entered in the Voters' List.

Provision for
protection
and safety for
voters at
polling
booths.

8. The Election Commission shall ensure protection and safety of all citizens who come to polling booths to cast their votes.

Sending of
list of names
of voters
who have not
cast their
votes to the
Government.

9. The Election Commission shall send a list of names of all eligible voters who have not cast their votes to Central Government or every State Government, as the case may be.

Punishment.

10. Any eligible voter who does not cast his vote at any election to the House of the People or the Legislative Assembly of a State shall—

(i) be ineligible for allotment of a plot or a house in a Government owned organisation;

(ii) be ineligible to get loan of any kind from any financial institution owned by the Government;

(iii) be ineligible to hold any public office;

(iv) be ineligible to contest any election for a period of six years from the date of poll on which he did not cast his vote;

(v) be ineligible for entitlement to any welfare scheme announced by the Government from time to time;

(vi) be required to pay a fine of rupees one thousand failing of which he shall undergo one week's simple imprisonment.

Power to
make rules.

11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

It has been observed in every election that the turnout at the polling booth is very poor and of late it has decreased to even less than thirty per cent of the total voters. As a result, candidates get elected having polled only a very few percentage of the total votes. Thus they do not in real terms represent the constituencies from where they get elected. Often it has been seen that many candidates have been elected having polled only twenty per cent of the votes in their constituencies.

Though frequent elections can be cited as one of the reasons for the poor turn out at the polling booths, yet it is the duty of every eligible voter to exercise his franchise in order to strengthen democratic process. We are the largest democracy in the world having a population of nearly one hundred crore. But since only forty per cent of the voters cast their votes, in the true sense, elections do not reflect the majority will of the people. Only when large number of voters participate in elections, elected representatives can be made more accountable.

The Bill seeks to make voting compulsory. This measure will:—

- (i) prevent bogus voting to a great extent;
- (ii) infuse greater participation in democratic process of the country; and
- (iii) prevent/curb electoral malpractices to a great extent.

In the recent elections held to Lok Sabha, many eligible voters did not find their names in the voters' lists. Moreover, the increasing violence is also one of the reasons for poor turnout at the polling booths. The Election Commission should ensure free and fair election and also ensure that all eligible voters find their names in the list.

NEW DELHI;
June 23, 2004.

CHANDRAKANT KHAIRE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of adequate polling booths in every constituency. Clauses 4 and 5 provide for special arrangements for persons deployed in public duty, physically handicapped and women to enable them to cast their votes. The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. It is likely that an annual recurring expenditure of about rupees five crore will be involved. A non-recurring expenditure of about rupees ten crore may also be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Government to frame rules for carrying out the purpose of the Bill. As the rules will relate to matters of detail only, the delegation of Legislative power is of a normal character.

BILL No. 51 OF 2005

A Bill to regulate the functioning of private schools and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title
and comm-
encement.

1. (1) This Act may be called the Private Schools (Regulation) Act, 2005.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "Authority" means the Education Authority constituted by the appropriate Government under section 3;

(c) "prescribed" means prescribed by rules made under this Act; and

(d) "private schools" means an unaided school whether recognised or not, which is not run by the appropriate Government, or its local authority or any other authority designated or sponsored by appropriate Government and includes a pre-primary, primary middle, higher secondary and senior secondary school and also

other institutions which impart education or training below the degree level but does not include an institution which imparts technical education.

3. (1) With effect from the appointed day, the appropriate Government shall, by notification in the Official Gazette, constitute an Authority in its territorial jurisdiction to be known as the Education Authority to regulate the functioning of the private schools and conditions of service of teachers working in those schools.

Constitution
of Education
Authority.

(2) The Authority shall consist of,—

(a) a Chairman to be appointed by the appropriate Government.

(b) ten members to be appointed by the appropriate Government, and whose number in any case shall not be less than five; and

(c) such other officers and staff to assist the Authority as may be prescribed.

(3) The Chairman and other members referred to in sub-section (2) shall be chosen from among the persons who have special knowledge and atleast fifteen years of experience in the field of education.

(4) The term of office and conditions of service of the Chairman and the members shall be such as may be prescribed.

4. (1) Subject to the rules, if any, made by the Central Government in this behalf, it shall be the duty of the Authority to regulate the functioning of the private schools and conditions of service of teachers under its jurisdiction.

Functions of
Education
Authority.

(2) Without prejudice to the generality of the provisions contained in sub-section (1) the Authority may,—

(a) prescribe the student-teacher ratio for each standard;

(b) put a ceiling on the tuition fee that may be charged by a school for a particular class;

(c) fix the hours of duty for teachers;

(d) monitor the funds collected by the schools; and

(e) perform such other function as may be prescribed.

5. (1) The Authority may make rules regulating the minimum qualifications for recruitment and the conditions of service of teachers of a private school.

Conditions of
service of
teachers.

(2) Subject to any rule that may be made in this behalf, no teacher of a private school shall be dismissed, removed or reduced in rank nor shall his service be otherwise terminated except with the prior approval of the Authority.

6. The salary, allowances, medical facilities, pension, gratuity, provident fund and other benefits of the teachers of the private school shall not be less than those of the teachers of the corresponding status in schools run by the appropriate Government.

Salary,
allowances
and other
benefits to
teachers.

7. (1) No private school shall levy any fee or collect any other charges or receive any other payment except those specified by the Authority.

Fees and other
charges.

(2) Every school shall obtain prior approval of the Education Authority before levying such fees and collecting such charges.

(3) The Authority shall ensure that the amount collected by the private school shall be spent on the development of the school and for no other purposes.

8. If the appropriate Government, on receipt of a report from the Authority, is satisfied that the managing committee of any private school, has neglected to perform any of the duties imposed on it by or under this Act or any rule made thereunder and that it is expedient in the interest of school education to close down such school, it may, after giving reasonable

Closing of
School.

opportunity of showing cause against the proposed action, close down such school for such period as may be prescribed:

Provided that if the school is a recognised private school, the appropriate Government shall also withdraw the recognition.

Act not to
apply to
minority
schools.

9. The provisions of this Act shall not apply to schools run by religious or linguistic minorities.

Act not in
derogation of
other laws.

10. The provisions of this Act shall be in addition to and not in derogation of any other law or rules made thereunder.

Power to
remove
difficulty.

11. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty.

Power to
make rules.

12. The Central Government may, after consultation with the State Governments, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Nowadays running an unaided private school has become a business. There are a number of unaided private schools throughout the country being run by a handful of persons. The main aim of these persons is to earn money rather than imparting good education. These schools are charging hefty tuition fee besides other charges in the name of donations, building funds, computer fee, etc. Not only this, these schools after availing the necessary tax concession are not investing the fund for the development of the schools. The teachers in these schools are underpaid and have no service benefits like medical facilities, provident fund, etc. There are cases of retrenchment/suspension of teachers without any reason whatsoever. The management works in connivance with officials. The women teachers are subjected to various kinds of harassments.

Education is not safe in the hands of such unscrupulous persons. Overcharging of fee on one hand and under payment to teachers on the other hand is the *modus operandi* of these people. The tax laws are violated with impunity.

Therefore, it has become necessary to set up adequate mechanism to monitor, regulate and control the thriving education business not only to ensure that children get good education but also to protect people from exploitation.

Hence this Bill.

NEW DELHI;
March 3, 2005

KASHIRAM RANA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the appropriate Government shall, within its territorial jurisdiction, establish an Education Authority to regulate the functioning of the unaided private schools. The Bill, therefore, if enacted, is likely to involve expenditure from the Consolidated Fund of India. It is estimated that a sum of Rs. eighty lakh will be involved as recurring expenditure per annum from the Consolidated Fund of India.

Non-recurring expenditure to the tune of Rs. ten lakh is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules in consultation with the State Governments for carrying out the provisions of the Bill. The matters for which the rules will be made are matters of detail only. As such the delegation of legislative power is of a normal character.

BILL NO. 54 OF 2005

A Bill to provide for recognition and regulation of voluntary organisations and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Voluntary Organisations (Regulation) Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means the State Government in relation to a State and the Central Government in other cases;

(b) "fund" means Voluntary Organisations Assistance Fund established under section 10;

(c) "National Board" means the National Board of Voluntary Organisations established under section 3;

(d) "Prescribed" means prescribed by rules made under this Act;

(e) "Voluntary Organisation" means any organisation or institution or society whether incorporated or registered or not, which is engaged in any of the following activities, namely:—

(i) promoting literacy and adult education;

(ii) involved in relief operations during natural calamities like floods, earthquakes, storms, squalls and likewise;

(iii) involved in relief operations and providing assistance to victims in cases of accidents;

(iv) involved in relief operations and providing assistance to victims during strikes and other forms of disturbances;

(v) organizing free medical camps, distributing free medicines, promoting in any way health awareness among general public or running free and charitable dispensaries;

(vi) providing assistance to orphaned children and running orphan children homes;

(vii) running schools for orphaned and destitute children and providing them with all necessary facilities;

(viii) running homes for destitute women and providing all facilities and training in self-employment;

(ix) running homes for aged and old persons, wherein all necessary facilities and support are provided;

(x) creating awareness among general public regarding pollution hazards and teaching methods of pollution control;

(xi) creating awareness among general public regarding dangerous diseases like AIDS and other contagious diseases;

(xii) creating awareness among general public about family planning;

(xiii) creating awareness among general public about ill effects of social evils like dowry, domestic discords and negligence of dependant persons;

(xiv) creating awareness among general public about the need for religious, caste and linguistic harmony and educating public about measures to be adopted to achieve harmony;

(xv) spreading and taking all necessary steps to enable people to lead a peaceful and healthy life and for improving general standard of life;

without any profit or commercial intention or motive.

Establishment
of a National
Board of
Voluntary
Organisations.

3. (1) The Central Government shall establish a National Board of Voluntary Organisations at New Delhi.

(2) The Board shall consist of—

(i) a Chairman who shall have experience in social services for a period of not less than ten years, to be appointed by the Central Government;

(ii) four other members who shall have experience in social services for a period of not less than five years, to be nominated by Central Government on rotation basis;

(3) The Chairman and other members shall be appointed for a term of five years.

Regional
Board of
Voluntary
Organisations.

4. (1) The Central Government shall establish a Regional Board of Voluntary Organisations in capital of every State/Union territory.

(2) The Regional Board shall consist of—

(i) a Chairman who shall have experience in social services for a period not less than ten years, to be appointed by the Central Government;

(ii) two other members who shall have experience in social services for a period of not less than five years, to be nominated by the Central Government on the basis of recommendation of the State Government concerned;

(3) The Chairman and other members shall be appointed for a term of five years.

Employees of
National
Board and
Regional
Board.

5. The National Board and every Regional Board shall consist of such number of employees as the Central Government may prescribe.

Application
for
registration.

6. Every voluntary organisation shall within a period three months from the date of commencement of this Act, apply to the Regional Board for registration with such particulars as may be prescribed.

Registration.

7. Every Regional Board shall within one month from the date of receipt of an application from a voluntary organisation, declare whether the application for registration has been accepted or rejected and in case the application has been rejected, the reasons therefor.

Appeal.

8. Any voluntary organisation, whose application for registration has been rejected may appeal to the National Board.

Decision of
National
Board.

9. The National Board may hear the views of the Regional Board and that of voluntary organisation concerned and take a decision which shall be binding on both the parties:

Provided that the National Board may before taking a decision, consult experts in the relevant fields.

Constitution
of a
Voluntary
Organisations
Welfare Fund.

10. (1) The Central Government shall constitute a Voluntary Organisations Welfare Fund.

(2) The Central Government and all State Governments shall contribute to the Fund in such ratio as may be prescribed.

Administration
of Fund.

11. (1) The Central Government shall administer the fund in such manner as may be prescribed.

(2) The Central Government shall make a grant to each voluntary organisation every year or at such intervals as it may determine.

(3) While making a grant under sub-section (2), the Central Government shall consult the National Board and the member of Parliament representing the constituency in which the organisation is situated:

Provided that the National Board may consult the Regional Board concerned in whose jurisdiction the office of the voluntary organisation is situated before recommending to the Central Government for release of grant.

12. Every voluntary organisation which is in receipt of grant from the Central Government, shall send an annual report to the Regional Board about its activities during the year and a statement of receipts and expenditure of the organisation.

Annual Report of voluntary organisation.

13. Every Regional Board shall send the annual reports received from various voluntary organisations under its jurisdiction to the National Board alongwith its comments on the performance of the voluntary organisations.

Regional Boards to send annual reports to National Board.

14. The Central Government may, after due consultation with National Board, reduce the amount of grant or withhold the total amount of grant payable to a voluntary organisation for such period as it may determine.

Withholding of grants to voluntary organisation.

15. If, after an enquiry, it is found that any voluntary organisation does not utilise the money for the purpose for which it was granted or involves itself in any activities other than for which it was formed, the Regional Board may recommend to the National Board for taking such action against the voluntary organisation as it may deem fit.

Regional Board to recommend action against voluntary organisation.

16. The National Board on receipt of a report from a Regional Board, shall take such action against the voluntary organisation, as it may deem fit.

National Board to take action.

17. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Voluntary organisations play a significant role in the development of the nation. They supplement the activities of the Government in times of crisis. In times of natural calamities, voluntary organisations come to rescue of the affected persons even before the Government. They are doing a yeomen service to the society. These voluntary organisations are engaging themselves in wide range of activities *i.e.* in providing education, health care, running homes for orphaned children, old age homes, providing free food and medicines to the needy people. However, many of the voluntary organisations are lacking adequate funds to undertake their activities. They mainly depend upon funds received through contributions and donations which is not enough to meet its expenditure. Moreover, there is no mechanism at present, for registration and regulation of the affairs of voluntary organisations. They do not have a legal status.

At present, Government provides grants to many voluntary organisations. But there is no check on utilisation of money granted to them and their activities. As such, these organisations utilise the money for the purposes other than for which it was granted. On the other hand genuine voluntary organisations are deprived of any assistance from the Government.

There is an urgent need to provide for registration and regulation of voluntary organisations for their better involvement in welfare activities.

The Bill seeks to achieve the above objective.

NEW DELHI;
March 3, 2005

KASHIRAM RANA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of a National Board of Voluntary Organisations. Clause 4 provides for the setting up of Regional Board in every State. Clause 5 makes provision for appointment of officers and staff for the Boards. Clause 10 provides for the constitution of a Voluntary Organisations Welfare Fund to which both Central and State Governments will contribute. Clause 11 provides for making grants to voluntary organisations every year. The Bill, therefore, will involve expenditure from the Consolidated Fund of India. It is likely to involve an annual recurring expenditure of about rupees one thousand crore from the Consolidated Fund of India. A non-recurring expenditure of about rupees five crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the matters will relate to detail only, the delegation of legislative power is of a normal character.

BILL NO. 59 OF 2005

A Bill to provide for the establishment and control of National Parks and for matter connected therewith.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the National Parks Act, 2005.

(2) It extends to whole of India.

(3) It shall come into force at once.

Short title,
extent and
commence-
ment.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Director General" means the Director-General of Wild Life and National Parks appointed under section 7;

(b) "Gazette" means the Gazette of India;

(c) "National Park" means a National Park established under section 3; and

(d) "Officer" means the Director-General or any other person referred to in section 7.

Reservation
of land and
declaration of
National
Parks.

3. (1) The State Government may, on the request of the Central Government, reserve any land in the State (including any marine area) for the purpose of a National Park under a name to be assigned to it by the Central Government.

(2) After the land is so reserved by the State Government, the Central Government may declare its intention to constitute such area as a National Park.

(3) The area so reserved shall be placed under the control of a National Park Committee established under section 6.

(4) The reservation of land under this section shall not be revoked except with the concurrence of the Minister concerned in writing.

(5) Any reservation of land under this section shall be notified in the Gazette and such notification shall—

(a) describe the reserved land;

(b) designate the authority having the control of the land so reserved; and

(c) be conclusive evidence that the land so described is reserved for the purpose of this Act.

Formation of
Advisory
Council.

4. (1) There shall be a National Parks Advisory Council which shall consist of the following members, namely:—

(a) a Chairman to be appointed by the Central Government;

(b) one representative nominated by the State Government from each of the States in which there is a National Park or part thereof;

(c) the Director-General of Wild Life and National Parks appointed under section 7;

(d) a representative of the Department of Planning and Development of the State;

(e) a representative of the Tourism Development Corporation, if any, of the State;

(f) a representative of the Department of Forest of the State; and

(g) not more than five persons to be appointed by the Central Government.

(2) A member appointed under clause (a) or (g) of sub-section (1) shall hold office for such period of time as the Central Government may decide and that Government may, at any time, remove him from office without assigning any reason therefor.

Functions of
Advisory
Council.

5. (1) The National Parks Advisory Council shall advise the Central Government on matters relating to the conservation, utilization, care of National Parks, declared as such by the Central Government, and such other matters as that Government may, from time to time, refer to it or on matters which it considers necessary on its own.

(2) Subject to regulations made under this Act, the Advisory Council shall determine its procedure at its sittings.

Formation of
Committee
for each
National
Park.

6. (1) A Committee shall be constituted by the Central Government for each National Park consisting of the following members, namely:—

(a) the Secretary of the Forest Department of each State within which the National Park is situated;

(b) a representative each of such departments of the Government of the State as the Central Government may consider necessary to be represented; and

(c) such other persons not exceeding three in number as the Central Government may appoint and the provisions of sub-section (2) of section 4 shall apply *mutatis mutandis* in the case of an appointment under this clause.

(2) The Secretary of the Forest Department of the State shall be the Chairperson of the Committee, but where a National Park is situated within two States or more, the Secretaries of Forest Departments of such States shall act as Chairpersons in rotation and, subject to regulations made under section 11, the Committee shall determine its procedure at its sittings.

(3) A Committee constituted under this section shall be responsible for the conservation, utilization, care, control, management and development of National Park for which it is constituted and, in discharging its responsibility under this Act, the Committee shall act on such directives as the National Parks Advisory Council may issue from time to time.

7. The Central Government shall, for the purposes of this Act, appoint a Director-General of Wild Life and National Parks, and such other officers and employees as may be necessary.

Appointment of Director-General, etc.

8. (1) The Director-General and other officers appointed by the Central Government shall be responsible for the proper carrying out of the provisions of this Act and in so doing persons shall be referred to by the designation given to them under this Act.

Functions of the Director-General.

(2) The Director-General shall have the general supervision and direction of all matters relating to National Parks.

(3) The Central Government may, from time to time, give the Director-General directions of a general character and not inconsistent with the provisions of this act as to the exercise of the powers conferred on, and the duties to be discharged by the Director-General under this Act and the Director-General shall give effect to all such directions.

9. (1) The State Government may, with the concurrence of the Central Government, lease or permit the use or occupation of any land within a National Park subject to such conditions and restrictions as it thinks fit to impose and for any of the following purposes only, namely:—

Giving leases in National Parks.

(a) the construction and maintenance of roads;

(b) the construction and maintenance of air strips;

(c) the construction and maintenance of dams and reservoirs;

(d) the construction and maintenance of hotels, rest houses, dwelling houses, buildings and works of public utility, where the State Government considers any of these purposes to be necessary and in the interests of the development of the National Parks; and

(e) mining or prospecting in accordance with the provisions of section 10.

(2) Any land leased by the State Government or in respect of which any use or occupation has been permitted by the State Government under sub-section (1), shall continue to form part of National Park and subject to the provisions of this Act, and of any regulations made thereunder save in so far may be set out in any condition or restriction imposed by the State Government under sub-section (1).

(3) Subject to this Act, any lease or permit to use or occupy land under this section shall be issued in accordance with the regulations hereafter provided.

(4) Save by virtue of any right conferred by or acquired under or in respect of any lease or permit under sub-section (1) or as otherwise in this Act provided, no person other than an officer may reside on, enter, use or occupy any land within and forming part of a National Park without the permission of the Director-General.

10. (1) Except as provided in sub-section (2) of this section, no mining or prospecting operations shall be carried on within a National Park.

Mining leases.

(2) If at any time the State Government has reason to believe that in a particular portion of a National Park, a mineral deposit exists of such richness that it would be contrary to the interests of the State that it should not be mined, the State Government may with the

concurrence of the Central Government, issue under the law relating to mining, licences to prospect that portion of the National Park and if necessary issue thereafter mining certificates or mining leases in respect of that portion of the National Park or of any part of that portion.

(3) Where any mining certificate or mining lease is used in respect of any land within a National Park, the holder of the certificate or the lease shall have such rights of passage, licences or other facilities as may be necessary for the practical exercise of the rights guaranteed by such certificate or lease.

(4) Notwithstanding anything in the law relating to mining, there shall be an implied condition in a mining certificate or mining lease issued pursuant to this section that any officer shall have such rights of entry into the land in respect of which a licence to prospect, a mining certificate or a mining lease has been issued as may be necessary in order that he may carry out the object of this Act in respect of such land of the National Park generally.

Power of
Central
Government
to make
regulations.

11. (1) The Central Government may make regulations, not inconsistent with this Act, as to any or all the following matters, namely:—

- (a) the exclusion of members of public from certain areas within a National Park;
- (b) the prohibition of the killing, maiming, trapping, capturing or impounding of any wild life within a National Park and the disposal of such wild life killed, maimed, trapped, captured or impounded;
- (c) the prohibition of such animals, as may be specified, from being taken into or remaining within a National Park;
- (d) the prohibition of burning and cutting of vegetation within a National Park;
- (e) the disposal of wild life, vegetation or other things formed within a National Park;
- (f) the search of any person suspected of contravening any regulation made under this Act;
- (g) the periods and times within which the public may have access to a National Park or any part thereof;
- (h) the regulation of the conduct, obligation and duties of persons residing or travelling or camping in a National Park and the safety of persons visiting such Park and their liability for all reasonable expenses incurred in connection with searches to find persons who have become or are reasonably believed to have become lost therein;
- (i) the fees for the issue of permits to enter into or camps within a National Park, for the admission of vehicles into and the taking of photographs within a National Park or for the services connected with the use of enjoyment of a National Park;
- (j) the protection, preservation and care of a National Park and of permanent works and works of maintenance and of facilities and amenities and of wild life, and regulation and features of science, and scientific or historical interest therein;
- (k) the regulation of traffic and carriage of passengers within a National Park;
- (l) the seizure and disposal of any vehicle, vessel, animal or other article or thing in respect of which there is a contravention of any regulation made under this Act;
- (m) penalties in respect of the contravention of any regulation made under this Act;
- (n) the construction and maintenance of hotels, rest houses, dwelling houses, buildings and works of public utility;

(o) the powers and duties of officers in relation to the carrying out of the provisions of this Act and regulations made thereunder;

(p) the procedure to be adopted by the National Parks Committees at their meetings and the remuneration or allowances to be paid to members thereof; and

(q) such other matters as the Central Government may consider necessary for the efficient control and management of a National Park or for the attainment of the object of its establishment.

(2) The Central Government may make different regulations under sub-section (1) of this section in respect of different National Parks.

STATEMENT OF OBJECTS AND REASONS

The object of the establishment of National Parks is the preservation and protection of wild life, plant life and objects of geological, archaeological, historical and other scientific and scenic interest and through their conservation and utilization to promote the education, health, aesthetic values of recreation of the people.

Recently many tigers, leopards and other animals died in many zoos for want of proper and adequate facilities.

Therefore, there is an urgent need to protect the animals and environment.

Hence this Bill.

NEW DELHI;
March 11, 2005

SUBODH MOHITE

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the formation of a National Parks Advisory Council; Clause 6 provides for formation of a Committee for each National Park; and Clause 7 provides for appointment of a Director-General of Wild Life and National Parks and such other officers and employees as may be necessary. Payment of travelling allowance, etc. to members of the Advisory Council and National Park Committees, and salaries to Director-General and other officers is likely to involve an annual recurring expenditure of about rupees one crore from the Consolidated Fund of India.

An amount of about Rs. 2 crore will also be involved from the Consolidated Fund of India towards non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Under clause 10(1), State Governments are empowered to prescribe conditions and restrictions to be imposed on leasing out land in National Parks. Under clause 11, the Central Government may make regulations for certain matters given under that section. Since the regulations to be made will provide for matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 53 OF 2005

A Bill to provide for the establishment of an autonomous Board for the overall development of economically backward areas of the country.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Backward Areas Development Board Act, 2005.

Short title.

2. (1) The Central Government shall, by notification in the Official Gazette, declare the areas of the country which, in the opinion of the Central Government, are economically backward.

Identification of Backward areas.

(2) Till such time as the Central Government by notification declares, the following areas shall be treated as backward areas:—

- (i) Vidarbha region of the State of Maharashtra;
- (ii) Telengana region of the State of Andhra Pradesh;

- (iii) Southern districts of the State of Tamilnadu;
- (iv) Northern area of the State of Bihar;
- (v) Tribal areas of the States of Orissa and Madhya Pradesh;
- (vi) Hilly regions of the State of Uttar Pradesh;
- (vii) State of Himachal Pradesh;
- (viii) Hilly areas of the State of Uttaranchal; and
- (ix) North-Eastern States.

Backward
Areas
Development
Board.

3. (1) There shall be established by the Central Government by notification in the Official Gazette, a Board to be called the Backward Areas Development Board.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) **The head office of the Board shall be at New Delhi and Board may, with the previous approval of the Central Government, establish offices at other places in the country.**

Composition
of Board.

4. The Board shall consist of the following members, namely:—

(a) a Chairman, who shall be the Vice-Chairman of the Planning Commission, *ex-officio*;

(b) **a Vice-Chairman to be appointed by the Central Government;**

(c) six Members of Parliament of whom four shall be from Lok Sabha and two from Rajya Sabha, to be elected by the Members of the respective Houses, who belong to the backward areas, from amongst themselves;

(d) nine members to be appointed by the Central Government to represent respectively:—

(i) the Planning Commission (other than the Chairman of the Board);

(ii) the Ministry of the Central Government dealing with Agriculture;

(iii) the Ministry of the Central Government dealing with Industrial Development;

(iv) the Ministry of the Central Government dealing with Finance;

(v) the Ministry of the Central Government dealing with Railways;

(vi) the Ministry of the Central Government dealing with Communications;

(vii) the Ministry of the Central Government dealing with Education;

(viii) the Ministry of the Central Government dealing with Health and Family Welfare; and

(ix) the Ministry of the Central Government dealing with Irrigation;

(e) not more than five members to be appointed by the Central Government, by rotation in alphabetical order, to represent the Governments of the States having the backward areas; and

(f) **four members to be appointed by the Central Government, who, in the opinion of that Government, are experts in various fields of economic development.**

5. (1) It shall be the duty of the Board to promote, by such measures as it thinks fit, the all sided development, under the control of the Central Government, of the backward areas of the country.

Development of Backward Areas.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Board shall take measures for the development, particularly, of railways, roads, posts and telegraphs and other means of communications, agriculture and irrigation, industries, banking, drinking water and water power, forests, live-stock, health and family welfare, education, vocational training and tourism in the backward areas of the country.

(3) The Central Government shall set up such industries in the backward areas as it may determine.

6. The Central Government shall provide, from time to time, after due appropriation made by Parliament by law, adequate funds for—

Appropriation of fund.

(a) development works undertaken by the Board; and

(b) administrative expenses of the Board;

7. The Board shall have a fund to be called the Development Fund to which shall be credited all receipts from the Central Government for the purposes of development of the backward areas and all payments by the Board towards development expenditure shall be made therefrom.

Development fund.

8. The Board shall also have a fund to be called the Administration fund to which shall be credited all receipts from the Central Government for the purposes of administration of the Board and all administrative expenses shall be met therefrom.

Administration fund.

9. The Vice-Chairman of the Board shall be entitled to such salary and allowances as may be prescribed by the Central Government.

Salary of Vice-Chairman.

10. The Central Government shall appoint a Secretary to the Board to exercise such powers and perform such duties as may be prescribed and as may be delegated to him by the Chairman and the Vice-Chairman.

Secretary to the Board.

11. The Board may appoint such officers and employees as may be necessary for the efficient performance of its functions.

Appointment of officers and staff.

12. (1) The Board shall submit every year a report, in such form as may be prescribed, of its development activities in the backward areas to the Prime Minister.

Annual report.

(2) The Prime Minister shall cause the report to be laid before each House of Parliament as soon as may be after receipt of the report.

13. (1) The Central Government may make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The need for levelling down economic disparities between different regions of the country was accepted as soon as the nation launched upon planned economic development. Accelerated development of backward areas, with a view to reducing regional disparities, was one of the important national objectives. But, even after 57 years of independence, the economic disparities among regions have not only persisted but have also increased. Required attention has not been paid to develop the backward areas.

For the development of the backward areas of the country and to bring them up in a short time to the level of the rest of the country, the strategy should be to evolve a fully integrated development programme for identified backward areas to ensure their all round progress. For drought-prone areas which have a predominance of small and marginal farmers, area based programmes which envisage a flow of the necessary inputs in the form of a package to enable accelerated economic development should be implemented. In addition, a programme of giving incentives to enable accelerated industrialisation of identified backward areas should also be implemented. It should be ensured that infrastructural facilities like power, water supply and transport are steadily developed and made available to areas which are at present lagging behind industrially or where there is a greater need for providing opportunities for employment. In order to achieve these objectives, an autonomous body, though under the overall control of the Central Government, should be established which would be responsible for planning and implementation of area based package programmes in coordination with the Planning Commission and the State Governments.

The Bill seeks to achieve the above objective.

NEW DELHI;
March 11, 2005.

SUBODH MOHITE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the Backward Areas Development Board. Clause 4 provides for appointment of Vice-Chairman and four members who are experts in various fields of economic development, among others. Clause 9 provides for payment of salary to Vice-Chairman. Clauses 10 and 11 provides for appointment of a Secretary to the Board and other necessary staff for performance of the functions of the Board. The Bill, therefore, if enacted, is likely to involve a recurring expenditure of about rupees fifteen lakh from the Consolidated Fund of India on account of administrative expenses. So far as the development expenditure (Clause 6) is concerned, that will form part of the annual expenditure on development plans of the country as a whole, and the development funds shall be made available to the Board after due appropriation by Parliament. An estimate of such expenditure is not possible at this stage. Nevertheless a sum of rupees ten thousand crore may be recurred per annum.

A non-recurring expenditure of about rupees fifty crore is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to frame rules for carrying out the purposes of the Bill. As the rules will provide for matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 50 OF 2005

A Bill to provide for the constitution of a State Reorganisation Commission for recommending reorganisation of the States of the country.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the States Reorganisation Commission Act, 2005. Short title and commencement.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “Commission” means the States Reorganisation Commission constituted under section 3;

(b) “prescribed” means prescribed by rules made under this Act; and

(c) “State” includes Union territory.

Constitution of States Reorganisation Commission.

3. (1) The President of India shall constitute a States Reorganisation Commission consisting of a Chairperson and four other members to consider and prepare a report on the reorganisation of the States of the Country.

(2) The conditions of service of the Chairperson and other members of the Commission shall be such as may be prescribed.

(3) The Central Government shall make available to the Commission such officers and staff, as may be deemed fit, to assist it in the discharge of its functions.

Report of the Commission.

4. (1) The Commission shall, within a period of six months from the date of its constitution, submit its report to the President of India, who shall cause the same to be laid before each House of Parliament.

(2) The Commission's recommendations shall be based on the following:—

(i) the area and population of a State;

(ii) the availability of infrastructure facilities like power, roads and communication, state of agriculture, industries available in different areas of the State and state of education;

(iii) the resources available in the State;

(iv) the general index of growth of the State; and

(v) the total revenue collection in different areas of the State.

Central Government to implement the report of Commission.

5. The Central Government shall, with such modification and alteration in the report of the Commission, as it may deem fit, implement the recommendations made in the report of the Commission, within such time as may be recommended by the Commission.

Power to make rules.

6. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

A Commission comprising three members was constituted six years after independence for the reorganisation of States of India. The division of States was made on linguistic basis in the light of the recommendations of the said Commission. Since then vast changes have taken place in all sphere of activities and development in the country. There have been demands from various parts of the country for creation of separate States. These demands are culmination of experience undergone by the people since the creation of the States on linguistic basis. Such demands for creation of new States should be given due consideration before the situation becomes explosive. It is therefore, necessary that a Commission is constituted to report on the reorganisation of the States. The Commission should take into consideration all relevant facts before making its recommendations regarding creation of new States.

Hence this Bill.

NEW DELHI;
March 11, 2005

SUBODH MOHITE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the President of India shall constitute a States Reorganisation Commission consisting of a Chairperson and four other members to consider and report on the reorganisation of the States of the country. It further provides that the Central Government shall make available such officers and staff, as may be prescribed, to assist it in the discharge of its functions. Since the salaries and allowances to be paid to the members of the Commission and to the officers and staff appointed to assist the Commission in the discharge of its functions are to be prescribed by the rules made under the Act, it is not possible to give an exact amount of expenditure that will be incurred in case the provisions of the Bill are brought into force.

However, it is estimated that a recurring expenditure to the tune of rupees fifty lakh is likely to be involved from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. As the rules to be made will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 57 OF 2005

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2005.

Insertion of new article 24A.

2. After article 24 of the Constitution, the following article shall be inserted, namely:—

Right to corruption free service.

"24A. Every citizen shall have the right to corruption free service in all offices and bodies under the State."

STATEMENT OF OBJECTS AND REASONS

The fundamental rights enshrined in the Constitution represent two important facts. The first is that they are an explicit and significant articulation of the basic rights that every citizen in the country must enjoy in order to ensure that we have a meaningful democracy and the ideals articulated in the Preamble of the Constitution and realised in practice. The second important fact is that they represent the rights which a citizen must enjoy if we want to have good governance by removing social evils like untouchability. These rights have evolved over generations. They represent the lessons the society has learnt from the past experience when these rights were not available to the citizens and consequently there was suffering and misgovernance. For example, the protection from double jeopardy must have arisen because there was a time when a person could be punished again and again for the same offence.

Fifty eight years of our existence as independent nation and 55 years of working of the Constitution has resulted in one common experience of all Indian citizens. They cannot go to any public organisation or office today and get the service which they are supposed to get without either paying bribe or bringing influence by way of recommendations or references from VIPs. Today, the situation is so bad that even a simple work, can be get done only after paying necessary bribe or bringing influence. It is a shameful thing that our country has been rated as one of the most corrupt countries in the world. Corruption cannot go unchecked. It will kill initiative, industriousness and skill. It will rather develop a lack of sensibility and irresponsibility. Today, corruption is not only in Government departments but is prevalent everywhere.

When we are talking about transparency in administration, freedom of information, etc. it would be appropriate to talk about prevention of corruption which all go together. Today, we are attracting maximum foreign investment. Our computer engineers are making proud by their achievements to the nation. But one single factor, corruption has downgraded our image to such an extent that all our efforts have been nullified. Certain steps like—

- (i) computerisation of all records;
- (ii) immediate action in case of corruption;
- (iii) complete and accurate transparency in administration; and
- (iv) severe punishment to the guilty can be initiated immediately to tackle this menace.

With this in view, it is proposed to amend the Constitution to make corruption free service as a fundamental right.

Hence this Bill.

NEW DELHI;
March 11, 2005.

SUBODH MOHITE

BILL NO. 84 OF 2005

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2005.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment
of article 19.

2. In article 19 of the Constitution, in clause (4), after the words "in the interests of the", the words "secularism or" shall be inserted.

STATEMENT OF OBJECTS AND REASONS

Our republic, which had been established on the principles of democracy and secularism, is now facing serious challenges from the religious fundamentalists and sectarian forces. If these divisive forces are allowed to persist, it will be a threat to the very existence of the unified, liberal democratic and pluralistic nation. It is the duty of the Government to bring forward a legislation to enable the State to check the activities of the conservative and sectarian forces.

Therefore, this Bill seeks to amend article 19 of the Constitution so that the State, in the interest of secularism, can put appropriate restrictions on fundamental rights to form associations or unions.

Hence this Bill.

NEW DELHI;
March 14, 2005.

BRAJESH PATHAK.

BILL NO. 55 OF 2005

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title.

1. (1) This Act may be called the Constitution (Amendment) Act, 2005.

Insertion of
new article
31.

2. After article 30 of the Constitution, the following heading and article thereunder shall be inserted, namely:—

"Right to Safe and Adequate Drinking Water

31.(1) Every citizen shall have access to safe and adequate quantity of drinking water.

Provision of
safe and
adequate
drinking
water.

(2) The State shall, within a period of five years from the date of coming into force of the Constitution (Amendment) Act, 2005, provide adequate number of wells or tubewells or handpumps or water taps or water tanks alongwith installation of required number of water treatment plants in every village, tehsil and district in order to ensure availability of safe and adequate quantity of drinking water for every citizen."

STATEMENT OF OBJECTS AND REASONS

Water is an essential element for existence of all living beings on the earth. In our country, there is adequate water in ponds, lakes, rivers and oceans. However, in the absence of effective water management policy, river waters and other water bodies remain untapped. Moreover, due to lack of awareness regarding the importance of water among the common man, the condition of ponds and lakes has been deteriorating for the last several years.

There is acute shortage of drinking water everywhere in the country including the metropolitan cities. In most of the villages, particularly in Uttar Pradesh, Uttaranchal, Bihar, Madhya Pradesh and Rajasthan, the villagers collect the rainwater in ponds which is utilized by them mainly for drinking purpose. Due to lack of any other alternative, they are forced to utilize this water which is unhygienic and unfit for human consumption.

In a welfare State like ours, it is the duty of the State to fulfil the basic needs of its citizens. Therefore, the State is required to provide drinking water to every citizen.

If the right to get drinking water is made a fundamental right, the State shall have to provide potable water to the citizens. Otherwise, the rural and urban people will come together and take recourse to the court collectively or individually with the purpose of compelling the Government to provide safe and adequate quantity of drinking water to them. Such a step shall give a new direction to the Government to tackle this serious problem. The Bill accordingly seeks to amend the Constitution.

Hence this Bill.

NEW DELHI;
March 14, 2005.

BRAJESH PATHAK

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for giving the citizens the right to potable water and the State shall provide facility of wells, tubewells, water taps, handpumps, water tanks in each village, tehsil and district. The Bill, therefore, if enacted, is likely to involve an annual recurring expenditure of about rupees fifteen thousand crore from the Consolidated Fund of India.

An amount of about rupees seventy crore will also be involved from the Consolidated Fund of India towards non-recurring expenditure.

BILL NO. 86 OF 2005

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2005.

Insertion of
new article
16A.

2. After article 16, the following article shall be inserted, namely:—

Right to
employment.

"16A.(1) Every citizen registered with the Employment Exchange, established by the State, shall have a right to employment.

(2) Any person who has registered himself with the Employment Exchange but has not been provided with employment shall be entitled to get an unemployment allowance of rupees one thousand per month till such time as he is provided with employment."

STATEMENT OF OBJECTS AND REASONS

There can be optimum use of capacity and talent of all the youth of our country registered with the Employment Exchanges by providing them with appropriate employment. If we manage to utilize the entire manpower of our country, our country can become more prosperous.

This is the aspiration of the people of our country that every youth should get employment. As fifty-eight years have passed since independence, ideally no youth should have been left unemployed. Yet today, the number of unemployed youth registered with the Employment Exchanges is very high. With a view to achieving social objective of the Constitution, right to employment should be made a Fundamental Right and all the unemployed youth registered with the Employment Exchanges should be given unemployment allowance until they are provided with employment.

This Bill seeks to achieve this objective.

NEW DELHI;
March 14, 2005.

BRAJESH PATHAK

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that all the citizens registered with the Employment Exchanges shall have a right to employment. The Bill further provides that all such unemployed youth who are registered with the Employment Exchanges and are yet to be provided with employment should be given an unemployment allowance at the rate of one thousand rupees per month.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. A recurring expenditure of about rupees one hundred crore per annum is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees seven crore is also likely to be involved.

BILL NO. 89 OF 2005

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2005.

Insertion of
new article
21B.

2. After article 21A of the Constitution, the following article shall be inserted, namely:—

Compensation
in case of any
ethnic,
political or
communal
violence.

“21B. Any person, who is deprived of his life or property or suffers any losses in his trade or avocation due to any ethnic or social violence or communal or political disturbances, the State shall take appropriate measures for providing adequate compensation to the affected person or his family, as the case may be, for rehabilitation and livelihood immediately, as far as possible, but in any case, within thirty days from the date of occurrence of the incident.”.

STATEMENT OF OBJECTS AND REASONS

Article 21 of the Constitution provides that no person shall be deprived of his life or personal liberty except according to procedure established by law. However, in the recent past, there has been a sharp increase in the incidents of ethnic or social violence or communal or political disturbances which have caused huge loss to the life, property and trade of the common citizens.

It has also come to notice that sometimes, the affected persons are not provided adequate relief through compensation and rehabilitation measures and they are deprived of any livelihood. It is the duty of the State to protect the citizens against the damage caused to their life, personal property and occupation on account of such violence and disturbances.

Therefore, this Bill seeks to amend the Constitution so that the citizens are not only protected against incidents of violence but rehabilitation of and payment of adequate compensation to the affected persons is also ensured within a prescribed time frame.

Hence this Bill.

NEW DELHI;
March 14, 2005.

BRAJESH PATHAK

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that the State shall ensure compensation and rehabilitation measures within the prescribed time for the victims of ethnic or social violence and communal or political turmoils. Since it is very difficult to predict such incidents and to evaluate the damages caused in such incidents, the actual expenditure cannot be estimated at this point of time. However, it is estimated that an annual expenditure of about rupees seven hundred crore is likely to be involved from the Consolidated Fund of India to meet the relief work.

No non-recurring expenditure is likely to be involved.

BILL NO. 52 OF 2005

A Bill further to amend the Forest (Conservation) Act, 1980

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title,
and
commencement

1. (1) This Act may be called the Forest (Conservation) Amendment Act, 2005.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of
new section
3C.

2. After section 3B of the Forest (Conservation) Act, 1980, the following section shall be inserted, namely:—

69 of 1980

Protection of
rights of
inhabitants of
hill areas over
forests.

"3C. (1) Nothing in this Act or in any other law, for the time being in force, in any part or whole of the territory of India shall be deemed to prohibit the inhabitants of hill areas, living in the vicinity of reserved forests or protected forests or in the vicinity of any other forest land, by whatever name called, from felling, cutting, sawing off or removing trees including green trees or from taking timber and fodder or fetching water or using any other forest produce or from grazing rights or from stripping the bark or leaves from any tree or from quarrying of stones or from any other right or concession which they had been traditionally enjoying or which is recognised and settled as a right by the State Government, in such forest or forest land for their own *bonafide* use

for the purpose of collecting fuel or for agriculture or for other domestic and non-commercial purposes.

(2) For the purposes of sub-section (1), the State Government shall grant licenses to *bonafide* users in such form and manner as it may, by notification in the Official Gazette, specify.

(3) Nothing in this section shall prohibit the State from imposing such conditions or making such regulations, including quantities of forest produce which the *bonafide* users may be entitled to, as are necessary for conservation and development of forests for public good.

(4) The provisions of this section shall have effect notwithstanding any judgment or order or decree of any court or tribunal or any authority contrary to the provisions of this section."

STATEMENT OF OBJECTS AND REASONS

The Forest (Conservation) Act, 1980 was enacted with a view to checking increasing deforestation and environmental deterioration. The Act made the prior approval of the Central Government obligatory for de-reservation of reserved forests and also for use of forest land for non-forest purposes. Though, no one disputes the purpose for which the Act was enacted yet, no one can deny that the forests are inseparably associated with day to day life of the hill people. People of the hill regions of Uttaranchal enjoyed the right to graze cattle, take fuel wood, grass, stones, etc. from the reserved forests for their *bonafide* use. Repeated attempts were made to curtail the rights of hill people from time to time. The Forest Grievance Committee appointed by the British Government, which submitted its report in 1921, and consequently a report of Mr. V.A. Stowell, I.C.S. on land management system, which is accepted as law, recognised all the aforesaid rights of the hill people. However, by an order dated 12 December 1996, the Supreme Court has directed that in hill areas, felling of trees will not be permitted in any forest, public or private, and this ban will not apply to permits granted to right holders for their *bonafide* personal use in Himachal Pradesh.

In the hill regions of Uttaranchal, approximately 40 thousand cu. mt. of timber per year was granted to the people as rights and concessions of forest produce at the time of settlement under the Indian Forests Act. Depriving people of hill regions of their customary rights as recognised by the Government has created hardships and discontent amongst them. There is no fuel wood available in cremation grounds and for other *bonafide* customary uses of the people of hill regions of Uttaranchal.

The proposed Bill is, therefore, an attempt towards restoring the customary rights as are associated with the people of hill regions with forests, while allowing the State Government to regulate such rights for the conservation of forests.

NEW DELHI;
March 17, 2005.

BACHI SINGH RAWAT

BILL NO. 88 OF 2005

A Bill further to amend the Constitution (Scheduled Tribes) Order, 1950.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Scheduled Tribes) Order (Amendment) Act, 2005.

Short title and commencement.

(2) It shall come into force at once.

C.O. 22 2. In the Schedule to the Constitution (Scheduled Tribes) Order, 1950, for "Part XVIII.—Arunachal Pradesh", the following Part shall be substituted, namely:—

Amendment of the Schedule.

"Part XVIII.—Arunachal Pradesh

All tribes in the State including:—

1. Adi
2. Apatani
3. Bugun

4. Galo
5. Hrusso
6. Khamba
7. Koro
8. Memba
9. Meyor
10. Monpa
11. Mishmi including Idu, Taroan and Kamun
12. Nyishi including Bangru, Puroik
13. Sajolang
14. Sartang
15. Shertukpen
16. Singpho
17. Tagin
18. Tai Khamti including Khamyang
19. Tangshang including:—
 - (i) Muklom
 - (ii) Lonchang
 - (iii) Tutsa
 - (iv) Tikhak
 - (v) Hawoi
 - (vi) Longri
 - (vii) Mungrey
 - (viii) Mushaung
 - (ix) Lungphi
 - (x) Joglai
 - (xi) Ngaimong
 - (xii) Ponthai
 - (xiii) Khalak
 - (xiv) Lungkhai
 - (xv) Halley
 - (xvi) Chellim
 - (xvii) Shechu
 - (xviii) Shiangwai
 - (xix) Rera
 - (xx) Shiangtee
 - (xxi) Dohe
 - (xxii) Moital
 - (xxiii) Hatseng
 - (xxiv) Gajee
 - (xxv) Gaja
 - (xxvi) Kochong
 - (xxvii) Lowchang

- (xxviii) Laki
 - (xxix) Gallon
 - (xxx) Chamchang
 - (xxxi) Ringkhu
 - (xxxii) Shohra
 - (xxxiii) Bowngtai
 - (xxxiv) Ronrang of Changlang district
 - (xxxv) Nocte, Tutsa and Wanchoo of Tirap district
20. Yobin."

STATEMENT OF OBJECTS AND REASONS

Arunachal Pradesh is a multi tribal State having twenty major tribes. However, during British regime names given to the tribes have no bearing with names of local tribes. Names of some tribes are derogatory and names of some tribes are misspelt. For example, in the Constitution (Scheduled Tribes) Order, 1950 in "Part XVIII.—Arunachal Pradesh" in entry 1. "Abor" is a derogatory word which is to be replaced by "Adi" which has already been given in entry 16. "Aka" tribes is to be replaced by "Hrusso" which has been given in entry 13 of the List. In entry 4, the word "Dafla" is to be replaced by "Nyishi" including "Bangru" and "Puroik" as sub-tribes.

Similarly, many major tribes like Monpa, Sajolang, Tangsang, Yobin, etc. have not been included in the list and need to be included in the Schedule.

Therefore, it is necessary that names of those tribes which are not in use should be omitted and incorrect names should be corrected and duplicate entries should be removed as per the recommendations made by the State Government of Arunachal Pradesh. It is accordingly proposed to amend the Constitution (Scheduled Tribes) Order, 1950.

NEW DELHI;
May 9, 2005

KIREN RIJU.

BILL NO. 85 OF 2005

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2005.

Short title.

2. In article 200 of the Constitution,—

Amendment
of article 200.

(i) the words "or that he reserves the Bill for the consideration of the President" shall be omitted; and

(ii) the second proviso shall be omitted.

3. Article 201 of the Constitution shall be omitted.

Omission of
article 201.

STATEMENT OF OBJECTS AND REASONS

People generally look towards the State Governments for carrying out the most of the developmental activities in the social and economic areas as well for day-to-day administrative activities. Very often it is experienced that legislative measures, containing social and economic measures, passed by the State Legislatures in pursuance of the assurances given to electorate or otherwise, get delayed whenever the Governor of the State chooses to reserve the Bills for consideration of the President. As many as 93 Bills passed by different State Legislatures during 1999 and 2000 were reserved by the respective Governors for consideration of the President and about one-third of those Bills, mostly containing economic measures, are pending clearance by the Union Government. In such a situation "politics" instead of "merit", is feared to creep in. It is said that the Union Government examines such Bills from three angles viz., (i) conflict with any Central Law; (ii) deviation from National or Central Policy; and (iii) legal and constitutional validity. After all, State Legislatures themselves could be expected to be responsible and accountable enough to keep these matters in view while passing a Bill. Further these aspects could better be left to the ever-vigilant eye of the media, the people and the constitutionally empowered judiciary to decide.

In order to enable the States to discharge their responsibilities it is necessary that this delaying, and sometimes negative provision be done away with.

Hence the Bill.

NEW DELHI;
May 9, 2005.

HANNAN MOLLAH

BILL NO. 87 OF 2005

A Bill to provide for the welfare of agricultural workers and to regulate their employment and conditions of service and for matters connected therewith.

BE it enacted by Parliament in the Fifth-sixth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. (1) This Act may be called the Agricultural Workers Welfare Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different States and different areas in a State and for different provisions of this act, within six months from the date of the assent.

Short title,
extent and
commencement.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "adolescent" means a person who has completed his fifteenth year of age but has not completed his eighteenth year of age;

(b) "adult" means a person who has completed his eighteenth year of age;

(c) "agricultural dispute" means any dispute or difference between landowners or between agricultural workers or between landowners and agricultural workers which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person.

Explanation.—

Where any landowner discharges, dismisses, retrenches or otherwise terminates the services of, or denies employment to, an individual agricultural worker, any dispute or difference between that agricultural worker and his employer connected with, or arising out of, such discharge, dismissal, retrenchment, termination or denial of employment shall be deemed to be an agricultural dispute notwithstanding that no other agricultural worker nor any union of agricultural workers is a party to the dispute;

(d) "agricultural land" means any land, used for cultivation or used for,—

(i) farming, including the cultivation and tillage of soil, etc;

(ii) dairy farming;

(iii) production, cultivation, growing and harvesting of any horticultural commodity;

(iv) raising of livestock, bee-keeping or poultry;

(v) any practice performed on a farm as incidental to or in conjunction with the farm operations (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation of farm products); or

(vi) reserved or used for growing fodder or thatching grass or for grazing cattle but does not include any plantation as defined in the Plantation Labour Act, 1951.

69 of 1951.

(e) "agricultural Tribunal" means in relation to any area, the Agricultural Tribunal constituted under this Act for that area;

(f) "agricultural worker" means a person who shall be treated as agricultural worker if he follows one or more of the following agricultural occupations in the capacity of labourer on hire or in exchange whether in cash or in kind or partly in cash and partly in kind;—

(i) farming, including the cultivation and tillage of soil, etc.;

(ii) dairy farming;

(iii) production, cultivation, growing and harvesting of any horticultural commodity;

(iv) raising of livestock, bee-keeping or poultry;

(v) any practice performed on a farm as incidental to, or in conjunction with, the farm operations (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation of farm products); and

(vi) growing fodder or thatching grass or for grazing cattle.

(g) "Board" means the Agricultural Workers' Welfare Fund Board constituted under section 11;

(h) "child" means a person who has not completed his fifteenth year of age;

(i) "Conciliation Officer" means, in relation to any area, the Conciliation Officer appointed under this Act for that area;

(j) "employer" when used in relation to an agricultural operation, including farming, dairy farming, production, cultivation, growing and harvesting of any horticultural commodity, raising of livestock, bee-keeping or poultry and any practice performed on a farm as incidental to or in conjunction with, farm operations (including any forestry or

timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation of farm products), means the person who has the ultimate control over the affairs of the agricultural land and where the affairs of any agricultural land are entrusted to any other person (whether called managing agent, manager, superintendent or by any other name) such other person shall be deemed to be employer in relation to that agricultural land;

(k) "family" means husband, wife and their unmarried minor children or such of them as exist;

(l) "Fund" means the fund established in pursuance of sub-section (1) of section 8;

(m) "Government" means the Government of a State or Union Territory, as the case may be;

(n) "Inspector" means an Inspector appointed under sub-section (1) of section 5 or deemed, under sub-section (3) of that section, to be appointed for the purposes of this Act;

(o) "landowner" means,—

(i) in relation to a land personally cultivated, the owner of such land;

(ii) in relation to a land held by a cultivating tenants, such cultivating tenant; and

(iii) in any other case, the person in actual possession of the land, and includes his heirs, assignees and legal representatives.

Explanation I.—

For the purposes of this clause,—

(i) "cultivating tenant" means a tenant who is in actual possession of, and is entitled to cultivate the land comprise in his holding.

(ii) "personally cultivate" means cultivate either solely by one's own labour or with the help of the members of his family or hired labourers or both, or personally direct or supervise cultivation by such members or hired labourers or both, provided that such members or hired labourers have not agreed to pay or to take any fixed proportion of the produces of the land they cultivate as compensation for being allowed to cultivate it or as remuneration for cultivating it.

Explanation II.—

For the avoidance of doubts, it is hereby clarified that the Government shall be deemed to be the landowner, where the land referred to in sub-clause (i) or sub-clause (iii) is land owned by, or, as the case may be, in the actual possession of, the Government.

(p) "prescribed wages" means—

(i) wages at such rate, not being—

(a) less than the minimum rate of wages fixed or revised under the Minimum Wages Act, 1948; or

(b) more than fifteen per cent in excess of such minimum rate of wages, as may be specified by the Government by notification in the Gazette; or

(ii) the agreed rate of wages,

whichever is higher.

Explanations:—

For the purpose of this clause, the rate of wages decided by an Industrial Relations Committee constituted for any area or the rate of wages agreed at conference held by the Government or the Labour Department of the Government in respect of any area shall be deemed to be the agreed rate of wages for that area during the period covered by such decision;

(q) "prescribed" means prescribed by rules made under this Act;

(r) "Scheme" means the Agricultural Workers' Welfare Fund Scheme framed under sub-section (1) of section 8; and

(s) "wages" means all remuneration, whether payable in cash or in kind, which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, but does not include—

(i) the value of—

(a) any house accommodation, supply of light, water or medical attendance; or

(b) any other amenity or any service excluded by general or special order of the Government; or

(ii) any contribution paid by the employer under any scheme framed under any law for the time being in force; and

(iii) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment.

CHAPTER II**Officers and Agricultural Tribunal**

Appointment
of
Conciliation
Officers.

3. The Government may, by notification in the Gazette, appoint for any area specified therein any officer of the Labour Department not below the rank of Assistant Labour Officer to be a Conciliation Officer for the purpose of performing the functions entrusted to a Conciliation Officer by or under this Act.

Constitution
of
Agricultural
Tribunal.

4. (1) The Government may, by notification in the Gazette, constitute for any area specified therein an Agricultural Tribunal for the purpose of performing the functions of the Agricultural Tribunal under this Act.

(2) An Agricultural Tribunal shall consist of a sole member, who shall be an officer not below the rank of Deputy Collector appointed by the Government.

Inspectors.

5. (1) The Government may, by notification in the Gazette, appoint—

(a) such officers, or

(b) such persons possessing the prescribed qualification, to be Inspectors for the purposes of this Act and define the local limits within which they shall exercise their powers.

(2) Subject to the rules made in this behalf, an Inspector may, within the local limits for which he is appointed,—

(a) enter, at any time after sunrise and before sunset with such assistants (if any), being persons in the service of the Government or any local or other public authority, as he thinks fit, premises or places where agricultural workers are employed or where he has reasons to believe that records are kept, for the purpose of examining any register or record of wages required to be kept under this Act or the rules made thereunder and require the production thereof for inspection;

(b) examine any person whom he finds in any such premises or place and whom he has reasonable cause to believe to be an agricultural worker;

(c) seize or take copies of such register or record or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe, has been committed by a landowner; and

(d) exercise such other powers as may be prescribed.

(3) Until Inspectors are appointed under this Act, the Inspector appointed under the Minimum Wages Act, 1948, shall be deemed to be Inspectors appointed under this Act for the area in which they exercise jurisdiction under the said Act.

6. Every landowner shall afford an Inspector all reasonable facilities for making an entry, inspection, examination or inquiry under this Act.

Facilities to be afforded to Inspectors.

CHAPTER III

Security of Employment and Welfare

7. (1) A landowner shall not employ any agricultural worker other than an agricultural worker who has worked in the same land during the previous agricultural season:

Preference for employment as agricultural workers.

Provided that the preference shall be given to agricultural workers employed for the previous agricultural operation in the same agricultural land during the same agricultural season:

Provided further that where there are permanent workers of the landowner, such workers shall be given preference over other agricultural workers.

Explanation.—

For the purposes of this sub-section, "permanent worker", in relation to a landowner, means an agricultural worker who is bound by custom or contract or otherwise to work in the agricultural land of that landowner.

(2) Notwithstanding anything contained in sub-section (1), where any agricultural worker has worked in the land of landowner during three consecutive agricultural seasons, prior to the previous agricultural season, he shall not be denied employment merely on the ground that he has not worked during the previous agricultural season, provided his absence during that season was due to reasons beyond his control.

(3) Nothing contained in sub-section (1) or sub-section (2) shall be deemed to enable the landowner to refuse employment during an agricultural season to an agricultural worker eligible to be employed by the landowner under either of those sub-sections but who has not offered himself for employment on any previous day of that agricultural season.

(4) Where the agricultural workers mentioned in sub-section (1) or sub-section (2) or sub-section (3) are not available or the number of such agricultural workers available is less than the number required by the landowner for the agricultural operation in his land, nothing in those sub-section shall be deemed to prevent him from employing other agricultural workers.

(5) Notwithstanding anything contained in the foregoing provisions of this section, no landowner shall be under an obligation to employ any agricultural worker—

(a) who does not offer himself for employment; or

(b) who is more than sixty years of age; or

(c) who is incapacitated and is unable to do the work.

Establishment
of Agricultural
Workers'
Welfare Fund.

8. (1) The Government may, by notification in the Gazette, frame a scheme to be called the Agricultural Workers' Welfare Fund Scheme for the establishment of a Welfare Fund under this Act for the welfare of agricultural workers and there shall be established, as soon as may be after the framing of the Scheme, a fund in accordance with the provisions of this Act and the Scheme.

(2) The Fund shall vest in, and be administered by, a Board constituted under section 11.

(3) Subject to the provisions of this Act, the Scheme framed under sub-section (1) may provide for all or any of the matters specified in the Schedule.

(4) The Scheme framed under sub-section (1) shall be laid, as soon as may be after it is framed, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the Scheme, the Scheme shall thereafter have effect only in such modified form; so, however, that any such modification shall be without prejudice to the validity of anything previously done under the Scheme.

Contributions
to the Fund.

9. (1) Every landowner shall contribute to the Fund at such rate and in such manner as may be prescribed.

(2) Every registered agricultural worker shall contribute to the Fund at the rate of rupees two per mensem.

(3) Any loan, grant or advance made by the Government of India, the State Government, a local body, or any other institutions shall be credited to the Fund;

Provided that the loan, grant or advance made by any authority or institution shall be utilised for no purpose other than the purpose for which it was given.

Modification
of Scheme.

10. (1) The Government may, by notification in the Gazette, add to, amend or vary the scheme.

(2) Every notification under sub-section (1) shall be laid, as soon as may be after it is issued, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session, immediately following, the Legislative Assembly makes any modification in the notification or decides that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

Constitution
of
Agricultural
Workers'
Welfare Fund
Board.

11. (1) The Government shall, by notification in the Gazette, constitute with effect from such date as may be specified in the notification, a Board to be called the Agricultural Workers' Welfare Fund Board for the administration of the Fund.

(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal and shall by the said name sue and be sued.

(3) The Board shall consist of such number of members as the Government may determine and they shall be chosen in such manner as may be prescribed.

(4) The Government shall appoint one of the members of the Board to be its Chairman.

(5) The term of office of, and the manner of filling casual vacancies among the members of the Board shall be such as may be prescribed.

(6) The names of the members and the Chairman shall be published in the Gazette.

(7) The Board shall administer the Fund in such manner as may be specified in the Scheme.

12. (1) the Government may appoint such number of officers as they think fit for assisting the Board in the administration of the Fund.

Appointment of officers for assisting the Board.

(2) The officers appointed under sub-section (1) shall exercise such powers and discharge such duties as may be prescribed.

13. (1) The Government may, after consultation with the Board, give to the Board general instructions to be followed by the Board, and such instructions may include directions relating to the recruitment, conditions of service and training of its employees and the wages to be paid to the employees.

Directions by the Government.

(2) In the exercise of its powers and performance of its duties under this Act, or the Scheme, the Board shall not depart from any general instructions issued under sub-section (1), except with the previous permission of the Government.

14. (1) The amount standing to the credit of any member in the Fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the member, and no receiver appointed under the Insolvency Act, 1955, shall be entitled to or have any claim on such amount.

Protection from attachment.

(2) Any amount standing to the credit of a member in the Fund at the time of his death and payable to his nominee under the Scheme shall, subject to any deduction authorised by the Scheme, vest in the nominee and shall be free from any debt or other liability incurred by the deceased or the nominee before the death of the member.

(3) Any amount standing to the credit of a member in the Fund at the time of his ceasing to be an agricultural worker, whether on the ground that he is over sixty years of age, or that he is incapacitated and is unable to work or on the ground of cessation of his membership due to default in payment of contribution to the Fund or on any other ground shall, subject to any deduction authorised by the Scheme, be paid to him and shall be free from any debt or other liability incurred by that member before his ceasing to be an agricultural worker.

15. No landowner shall by reason only of his liability for the payment of any contribution to the Fund reduce whether directly or indirectly the wages of any agricultural worker to whom the Scheme applies.

Landowner not to reduce wages, etc.

16. (1) The State may setup an Employment Guarantee Board, tripartite in character, having representatives of the State Government, employers and agricultural workers to supervise employment guarantee and social security schemes.

Constitution of Employment Guarantee Board.

(2) The Chairman of the Board shall be nominated by the State Government.

(3) The Board shall plan alternative or part time employment as well as self employment for the agricultural workers particularly for the lean seasons and at the times of natural calamities.

(4) The provision of requisite money for implementation of the programme under the Board shall be in such manner as may be prescribed.

CHAPTER IV

Hours and Limitations of Employment and Wages

17. Save as otherwise expressly provided in this Act, no adult agricultural worker shall be required to work for more than eight hours in any day and no adolescent or child for more than six hours in any day:

Hours of work.

Provided that nothing contained in this section shall be deemed to prohibit an agreement between the landowner and the agricultural workers for working for less than eight hours or six hours, as the case may be, on any particular day or days or on all days of employment or to effect any custom or practice prevailing in the locality under which the agricultural worker is required to work for less than eight hours or six hours, as the case may be.

Daily intervals for rest.

18. The period of work on each day shall be so fixed that no period shall exceed four hours and that no agricultural worker shall work for more than four hours before he has had an interval for rest for at least half an hour.

Wages payable to agricultural workers.

19. (1) Every landowner shall pay to an agricultural worker employed by him the prescribed wages for each day or for work done.

(2) The Government may, from time to time, by notification in the Gazette, fix the number of hours of work which shall constitute a normal working day for the purposes of sub-section (1) either for the whole State or any part thereof:

Provided that where the Government have fixed the number of hours of work which shall constitute a normal working day in respect of any of the categories of agricultural workers in the employment in agriculture under section 13 of the Minimum Wages Act, 1948, the hours of work so fixed shall, until a notification issued under this sub-section, be deemed to have been fixed under this sub-section.

11 of 1948.

Wages for harvest.

20. (1) The prescribed wages for harvest shall be paid at the threshing floor on which the threshing takes place and no portion of the produce shall be removed from the threshing floor without payment of the prescribed wages to the agricultural worker concerned.

(2) Notwithstanding anything contained in sub-section (1), where the quantum of prescribed wages is in dispute and such quantum cannot be determined without settling the dispute under the provisions of this Act, an officer not below the rank of Tahsildar authorised in this behalf by the Government by notification in the Gazette shall, if he is satisfied that the harvested produce if kept in the threshing floor till the settlement of the dispute will perish or be otherwise lost, take such action as he thinks expedient in each case to ensure that the harvested produce does not perish or is not otherwise lost till the settlement of the dispute.

Enforcement of payment of prescribed wages.

21. (1) If any landowner pays less than the prescribed wages or refuses to pay the prescribed wages to any agricultural worker, the agricultural worker or an official of the union of which he is a member may make an application to the Conciliation Officer for a direction under sub-section (2).

(2) On receipt of an application under sub-section (1), the Conciliation Officer shall, after giving the applicant and the landowner an opportunity of being heard and after such inquiry, if any, which he may consider necessary, direct,—

(a) in the case of a claim arising out of the payment of less than the prescribed wages, the payment to the agricultural worker of the amount by which the prescribed wages payable to him exceeds the amount actually paid by the landowner;

(b) in the case of a claim arising out of non-payment of prescribed wage, the payment of the prescribed wages to the agricultural worker.

(3) If as a result of a direction under sub-section (2), any amount of the prescribed wages becomes payable to an agricultural worker, the Conciliation Officer may,—

(a) in the case of harvest,—

(i) recover in kind such amount of the prescribed wages at the threshing floor from out of the harvested produce; and

(ii) if the harvested produce or any portion thereof has been removed from the threshing floor in contravention of the provisions of section 19, recover in kind the amount of prescribed wages from the landowner concerned and if such recovery is not possible, the Conciliation Officer shall make a report to the Collector specifying the full particulars regarding the amount or cash value of the prescribed wages due to the agricultural worker concerned and on receipt of such report, the Collector shall proceed to recover the same from the landowner concerned as if it were an arrears of Public revenue due on land;

(b) in the case of any work other than harvest, recover in kind amount of prescribed wages from the landowner concerned and if such recovery is not possible, the

Conciliation Officer shall make a report to the Collector specifying the full particulars regarding the amount of cash value of the prescribed wages due to the agricultural worker concerned and on receipt of such report, the Collector shall proceed to recover the same from the landowners concerned as if it were an arrears of public revenue due on land.

Explanation.—

In this sub-section, "Collector" means the District Collector or any other officer appointed by the Government to exercise the powers and perform the functions of a Collector under the Revenue Recovery law of the State or the Union Territory, as the case may be.

(4) The Conciliation Officer shall have such powers as are necessary to effect the payment of the prescribed wages to the agricultural worker, including the power to enter upon any land on which, or into any building in which, the harvested crop is kept.

22. Where an agricultural worker is required by the landowner to work for more than the number of hours of work fixed or deemed to have been fixed under sub-section (2) of section 18, he shall be entitled in respect of each hour of such overtime work to wages at the rate of twice his ordinary rate of wages for one hour:

Wages for overtime work.

Provided that nothing contained in this section shall apply in respect of harvest or any work connected therewith.

CHAPTER V

Disputes

23. (1) Where an agricultural dispute exists or is apprehended the Conciliation Officer may hold conciliation proceedings and shall, for the purpose of bringing about a settlement of the dispute, without delay investigate the same and all matters affecting, the merits and the right settlement thereof and may do all such things, as he thinks fit, for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

Settlement of agricultural disputes.

(2) If a settlement of the dispute of any of the matters in dispute is arrived at in the course of conciliation proceedings, the Conciliation Officer shall send a report thereof to the District Labour Officer together with a memorandum of settlement signed by the parties to the dispute.

(3) If no such settlement is arrived at, the Conciliation Officer shall, as soon as practicable after the close of the investigation, send to the District Collector through the District Labour Officer a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could be arrived at:

Provided that in a case where the agricultural dispute relates to an agricultural land which is situated within the local limits of more than one revenue district, the Conciliation Officer shall send the report to the District Collector in whose jurisdiction the major portion of such land is situate.

(4) If on a consideration of the report referred to in sub-section (3), the District Collector is satisfied that there is a case for reference to an Agricultural Tribunal, he may, by order in writing, refer the agricultural dispute to the said Tribunal for adjudication, and where the District Collector does not make such a reference, he shall record and communicate to the parties concerned his reasons therefor.

(5) Where an agricultural dispute has been referred to an Agricultural Tribunal under sub-section (4), the Tribunal shall hold its proceedings expeditiously and shall, as soon as practicable after the conclusion of the proceedings, but not later than thirty days from the date of receipt of the reference by the Tribunal, submit its award to the District Collector.

(6) The District Collector shall, within a period of fifteen days from the date of receipt of the award referred to in sub-section (5), cause the same to be published in his office and in the office of the Agricultural Tribunal in such manner as may be prescribed and shall also forward copies of the award to the parties concerned.

(7) An award referred to in sub-section (5) shall, subject to any order of the Government under section 26, become enforceable on the expiry of ten days from the date of its publication in the manner provided in sub-section (6).

(8) Every memorandum of settlement referred to in sub-section (2) and, subject to any order of the Government under section 26, every award of an Agricultural Tribunal shall be final and shall be given effect to by the parties to the agricultural dispute.

Appeal.

24. (1) Against any order passed under section 23 an appeal shall lie to the Agricultural Tribunal within a period of thirty days from the date of the order appealed against, and the decision of the Agricultural Tribunal on such appeal shall be final.

(2) The Agricultural Tribunal shall have no power to stay the operation of the order of the Conciliation Officer pending disposal of the appeal.

Decision in appeal in respect of prescribed wages to be given effect to.

25. (1) Where the amount of prescribed wages paid to an agricultural worker under section 19 or recovered under section 20 for payment to an agricultural worker is less than the amount of prescribed wages payable as a result of the decision in appeal, the balance shall be recovered from the landowner concerned as if it were an arrear of public revenue due on land paid to the agricultural worker concerned.

(2) Where the amount of prescribed wages paid to an agricultural worker under section 19 or recovered under section 20 for payment to an agricultural worker is in excess of the amount of prescribed wages payable as a result of the decision in appeal, such excess shall be recovered from the agricultural worker concerned for payment to the landowner concerned and the provisions of section 39 shall apply to such recovery.

Power of Government to settle disputes.

26. (1) Notwithstanding anything contained in section 23, where any agricultural dispute exists or is apprehended, the Government may, by order in writing and for reasons to be stated therein,—

(a) refer the dispute to the Agricultural Tribunal constituted for the area, in which the dispute exists or is apprehended, for adjudicating; or

(b) decide the dispute itself and pass an award.

(2) Where a dispute is referred to an Agricultural Tribunal under clause (a) of sub-section (1), the provisions of sub-sections (5), (6), (7) and (8) of section 23 shall apply as if the reference to the Tribunal was made by the District Collector under sub-section (4) of that Section.

(3) The Government shall cause every award passed by it under clause (b) of sub-section (1) to be published in the Gazette and in such other manner as may be prescribed.

(4) An award referred to in sub-section (3) shall be final, shall be given effect to by the parties to the agricultural dispute and shall be enforceable on the expiry of five days from the date of its publication in the Gazette.

Power of Government as respects awards.

27. (1) If the Government are of opinion that it is inexpedient on public grounds affecting national economy or social justice to give effect to the whole or any part of an award referred to in sub-section (5) of section 23, it may, by notification in the Gazette, declare that the award shall not become enforceable on the expiry of the period mentioned in sub-section (7) of the said section.

(2) Where any declaration has been made in relation to an award under sub-section (1), the Government may, within thirty days from the date of publication of the award under sub-section (6) of section 23, make an order rejecting or modifying the award, and such order shall be published in the Gazette.

(3) Where no order has been passed by the Government under sub-section (2), the award shall become enforceable on the expiry of the period of thirty days mentioned in that sub-section.

(4) Where an order has been made by the Government under sub-section (2), the award shall not be enforceable or, as the case may be, the award as modified shall be enforceable on the expiry of a period of five days from the date of publication of such order in the Gazette.

CHAPTER VI

Penalties and Procedure

28. (1) Whoever obstructs any inspector or Conciliation Officer in the discharge of his duties under this Act or refuses or willfully neglects to afford any Inspector reasonable facilities for making an inspection, examination or inquiry authorised by or under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for obstructions, etc.

(2) Whoever willfully refuses to produce on the demand of an Inspector any register or other document kept in pursuance of this Act or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before, or being examined by, an Inspector acting in pursuance of his duties under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

29. Whoever for the purpose of avoiding any payment to be made by him under this Act or under the scheme or for enabling any other person to avoid such payment, knowingly makes or causes to be made any false statement or false representation, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Penalty for making false statements, etc.

30. Any person who commits a breach of any term of any settlement or award shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both and, where the breach is a continuing one, with a further fine which may extend to one hundred rupees for every day during which the breach continues after conviction for the first such breach, and the court trying the offence may direct that the whole or any part of the fine realised from him shall be paid by way of compensation to any person who, in its opinion, has been injured by such breach.

Penalty for breach of settlement or award.

31. Whoever contravenes or makes default in complying with any of the provisions of this Act or the Scheme or of any rules made under this Act shall, if no other penalty is elsewhere provided by or under this Act for such contravention or non-compliance, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both, and, in the case of a continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

Other penalties.

32. If any person who has been convicted of any offence punishable under this Act is again found guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term which shall not be less than one month, but which may extend to six months and with fine which shall not be less than five hundred rupees, but which may extend to two thousand rupees:

Enhanced penalty after previous conviction.

Provided that for the purposes of this section, no cognizance shall be taken of any conviction made more than five years before the commission of the offence which is being punished.

33. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall

Offences by companies.

be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, is attributable to any neglect on the part of, any Director, Manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(i) "company" means any body corporate and includes a firm or any other association of individuals; and

(ii) "director", in relation to a firm, means a partner in the firm.

Cognizance
of offences.

34. No court shall take cognizance of any offence punishable under this Act, except on complaint made by, or with the previous sanction in writing of, the Government or an officer authorised by the Government in this behalf by notification in the Gazette, and no court inferior to that of a Magistrate of the First Class shall try any offence punishable under this Act.

Limitation of
prosecutions.

35. No court shall take cognizance of an offence punishable under this Act unless complaint thereof is made within three months from the date on which the alleged commission of the offence comes to the knowledge of the Government or the officer authorised under sections 3 to 5.

CHAPTER VII

Miscellaneous

Register of
agricultural
workers.

36. (1) The executive authority of every local authority shall prepare a register of agricultural workers residing within the jurisdiction of that local authority.

(2) The register shall contain such particulars as may be prescribed.

(3) The register shall be maintained by the executive authority in such manner as may be prescribed.

Maintenance
of registers
and records by
landowners.

37. (1) Every land owner shall maintain such registers and records as may be prescribed.

(2) The registers and records referred to in sub-section (1), shall contain such particulars and shall be kept in such place, as may be prescribed.

Bar of
jurisdiction of
civil courts.

38. No civil court shall entertain any suit or other proceedings to set aside or modify any order or decision passed by any authority or officer under this Act in respect of any of the matters falling within its or his scope.

Power to take
evidence on
oath, etc.

39. Any authority or officer exercising powers under this Act shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit, in respect of the following matters, namely:—

(a) enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavit;

(d) issuing commissions for the examination of witnesses; and

(e) such other matters as may be prescribed;

45 of 1860.

and any proceedings before such authority or officer shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

40. (1) Where any money is due to an agricultural worker from a landowner under a settlement referred to in sub-section (2) of section 23, or an award under sub-section (5) of that section or under clause (b) of sub-section (1) of section 26 or an award as modified by the Government under sub-section (2) of section 27, the agricultural workers himself or any other person authorised by him in writing in that behalf or, in the case of the death of the agricultural workers, his assignees or heirs may, without prejudice to any other mode of recovery, make an application to the District Collector for the recovery of the money due to him and if the District Collector is satisfied that any money is so due, he shall proceed to recover the same as if it were an arrear of public revenue due on land:

Recovery of money due from landowners.

Provided that every such application shall be made within one year from the date on which the money became due to the agricultural worker from the landowner;

Provided further that any such application may be entertained after the expiry of the said period of one year if the District Collector is satisfied that the applicant had sufficient cause for not making the application within the said period.

(2) Any amount due from a landowner as contribution to the fund and any other amount due from a landowner under this Act or the scheme may, if the amount is in arrears, be recovered as if it were an arrears of public revenue due on land.

41. Where a landowner makes default in the payment of any contribution to the fund, the Government may recover from him such damages, not exceeding twenty-five per cent. of the amount of arrears, as it thinks fit.

Power to recover damages.

42. (1) The provisions of this Act and the Scheme shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the commencement of this section:

Effect of laws and agreements inconsistent with this Act and Scheme.

Provided that where under any such award, agreement, contract of service, custom or otherwise, any agricultural workers was enjoying immediately before the commencement of this section benefits in respect of any matter, which are more favourable to him than those to which he would be entitled under this Act, the agricultural worker shall be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed as precluding any agricultural worker from entering into an agreement with a landowner for granting him rights or privileges in respect of any matter, which are more favourable to him than those to which he would be entitled under this Act.

(3) For the avoidance of doubts, it is hereby declared that nothing contained in sub-section (1) or sub-section (2) shall be deemed to enable a landowner to enter into any agreement in contravention of the provisions of section 7.

43. (1) Nothing contained in this Act other than sub-section (1) of section 9, sections 18, 20, 23, 24, clause (b) of sub-section (1), sub-section (3) and (4) of section 26, sub-section (2) of section 40, section 41 and sub-section (1) of section 42 shall apply in relation to a landowner who does not hold more than one hectare in extent of land.

Exemption.

Explanation.—

Where the landowner is a member of a family, the extent of land held individually by any member of his family or jointly by some or all of the members of such family shall, for the purposes of this sub-section, be deemed to be held by the landowner.

(2) The Government may, by notification in the Gazette, for reasons to be recorded in writing, exempt any landowner or class of landowners or any agricultural land or class of agricultural lands from all or any of the provisions of this Act.

Delegation of powers.

44. The Government may, by notification in the Gazette, direct that any power exercisable by it under this Act or the rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by such officer or authority subordinate to the Government as may be specified in the notification.

Members of Board etc. to be Public servants.

45. Every member of the Board and every officer appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Power to remove difficulties.

46. If any difficulty arises in giving effect to the provisions of this Act or the Scheme or any award or settlement under this Act, the Government may, by order, do anything not inconsistent with such provisions which appears to it necessary or expedient for the purpose of removing the difficulty.

Protection of action taken in good faith.

47. No suit, prosecution or other legal proceedings shall lie against the Government or any authority or officer in respect of anything which is in good faith done or intended to be done in pursuance of this Act or the Scheme or any rule or order made under this Act.

Prohibition of unfair labour practice.

48. A landlord shall not support or encourage any unfair labour practice such as interference with the right of agricultural workers to enroll or continue as union members, discriminatory restraint or coercion against any agricultural worker because of recognised activity of trade union, and victimisation of any agricultural worker and abuse of authority in any form.

Power to make rules.

49. (1) The Government may, by notification in the Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the procedure to be followed by the Conciliation Officer and the Agricultural Tribunal;

(b) the fees to be paid for applications and appeals under this Act;

(c) the powers of the Conciliation Officer necessary for the effective enforcement of the provisions of this Act;

(d) the manner of estimating the cash value of the prescribed wages in kind;

(e) the procedure to be followed by the Government under sections 25, 26 and 27; and

(f) any other matter which has to be, or may be, prescribed under the provisions of this Act.

(3) Every rule made under this section and every notification issued under section 44 shall be laid, as soon as may be after it is made or issued, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or notification or decides that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

THE SCHEDULE

[See sub-section (3) of Section 8]

1. The time and manner in which the contributions shall be paid to the Fund by the landowners.
2. The manner of registration of the agricultural workers and the manner in which the agricultural workers shall pay contribution to the Fund.
3. The number of members of the Agricultural Workers' Welfare Fund Board and their term of office.
4. The manner in which the members are to be appointed and removed.
5. The manner in which the Chairman of the Board is to be appointed.
6. The constitution of committees for assisting the working of the Board.
7. The manner, in which accounts shall be kept, the investment of money belonging to the Fund in accordance with any direction issued or conditions specified by the Government, the preparation of the Budget, the audit of accounts and the submission of reports to the Government.
8. Conditions under which withdrawal from the Fund and any deduction or forfeiture therefrom may be made and the maximum amount of deduction or forfeiture.
9. The fixation of annual rate of interest payable to the members of the Funds by the Board in consultation with the Government.
10. The form in which an employee shall furnish particulars of himself and his family.
11. The nomination of any person or persons to receive the amount at the credit of a member on his death and the cancellation or alteration of such nomination.
12. Registers and records to be maintained by the employers and the returns to be furnished by them.
13. The powers, if any, which may be exercised by the officers appointed under this Act for the administration of the scheme.
14. The conditions of service, duties and remuneration of officers working under the Board.
15. The form or design of any identity card, token, disc or pass-book for the purpose of identifying any member of the Fund and for issue, custody and replacement thereof.
16. The fee to be levied for any of the purposes specified in the Schedule.
17. The manner in which any unclaimed amount standing to the credit of a member is to be dealt with.
18. The further powers, if any, which may be exercised by the officers appointed under this Act.
19. The conditions under which any amount due to the Board may be written off.
20. The purposes for and the conditions under which the Fund may be utilised for the Welfare of Agricultural Workers or their dependents such as superannuation benefit, death benefit, maternity benefit, medical assistance, educational assistance to dependent children, house construction advance, advances for renovation and expansion of house or for maintenance or repair of house, advance for purchase of agricultural land, advance for marriage expenses of a member of his family or his daughter/daughters, payment of insurance premium for the members, payment of old age pension, etc.

21. The conditions under which and the manner in which any compensation is payable to any member in cases of accident.
22. Provision for payment of pension to the agricultural workers and the conditions and procedure relating thereto.
23. Any other matter not inconsistent with this Act, which is to be provided for in the scheme or which may be necessary or proper for the purpose of implementing this Act and scheme.

STATEMENT OF OBJECTS AND REASONS

Agricultural workers who constitute the largest chunk of the country's working force, are subjects of exploitation by the landlords and other richer sections in most of the States. Although under the Minimum Wages Act, 1948, minimum rate of wages of agricultural workers are fixed or revised from time to time but there is no adequate law enforcing agency. Still there is no law applicable to them on all India basis so as to provide for security of their employment, regulation of hours of work, provision for Provident Fund, settlement of disputes pertaining to agricultural operations. It is, therefore, necessary that the Parliament should enact a law, which may be applicable to all the States, as are other labour laws. Such a law would go a long way in alleviating the miseries of the hapless agricultural workers and reduce their exploitation by big landowners and other richer sections.

Hence this Bill.

NEW DELHI;
May 2, 2005.

HANNAN MOLLAH

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the constitution of Agricultural Tribunal. Clause 5 provides for appointment of Inspectors. Clause 8 empowers the State Government to frame a Scheme called Agricultural Workers' Welfare Fund Scheme and establishment of a fund for the welfare of agricultural workers. Clause 9 provides for contribution by the Government to the Fund. Clause 11 provides for the Constitution of an Agricultural Workers Welfare Fund Board. Clause 12 provides for appointment of officers of the Board. Clause 16 empowers the State Government to set up Employment Guarantee Board. The expenditure involved under these provisions will be met from the Consolidated Fund of the respective States. Expenditure from the Consolidated Fund of India will be incurred only in respect of the Union Territories. A sum of rupees fifty lakh is therefore, likely to be involved as annual recurring expenditure from the Consolidated Fund of India and a sum of rupees twenty lakh is also likely to be involved on account of non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 empowers the State Government or the Government of the Union Territory to frame an Agricultural Workers' Welfare Fund Scheme while Clause 49 empowers the State Government or the Government of the Union Territory to make rules for carrying out the purposes of this Bill. The delegation of Legislative powers is of a normal character.

BILL NO. 81 OF 2005

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2005.

Insertion of
new article
16A.

2. After article 16 of the Constitution, the following article shall be inserted,
namely:—

Reservation
of
appointments
or posts in
favour of
economically
backward
class of the
society.

“16A. Notwithstanding anything contained in this Constitution or any judgement, order or award of any court to the contrary, the State shall, within six months from the passing of the Constitution (Amendment) Act, 2005, make provision for reservation of appointments or posts in the services under the State in favour of persons belonging to economically backward class of the society.

Explanation.— For the purpose of this article, “persons belonging to economically backward class of the society” means persons whose family income from all the sources is less than rupees five thousand per month but shall not include persons belonging to Scheduled Castes, Scheduled Tribes and socially and educationally backward classes of citizens.”

STATEMENT OF OBJECTS AND REASONS

Provision has been made for reservation in services for Scheduled Castes, Scheduled Tribes and Other Backward Classes, who are socially and educationally backward. But one important segment of the society has been completely ignored *i.e.* the poor people belonging to socially forward communities. These people need State support. Since they unfortunately belong to upper castes, they are not given any benefit by the Government. Therefore, it is proposed to amend the Constitution with a view to making provision for reservation in favour of economically backward class of citizens in services under the State.

NEW DELHI;
May 13, 2005.

CHANDRAKANT KHAIRE

BILL NO. 83 OF 2005

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2005.

Amendment of
article 371.

2. In article 371 of the Constitution, in clause (2), in sub-clause (a), after the word "Marathwada", the word, "Konkan" shall be inserted.

STATEMENT OF OBJECTS AND REASONS

Konkan region of Maharashtra State has remained under developed. No special attention has been given to the region for its development. Therefore, it is proposed to amend the Constitution to provide for the speedier development of the Konkan region by establishing a separate Development Board for the region in the State of Maharashtra.

CHANDRAKANT KHAIRE

NEW DELHI;
May 13, 2005.

BILL NO. 78 OF 2005

A Bill to provide for setting up of an Airlines Regulatory Authority and for matters connected therewith.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title,
extant,
commencement
and
application.

1. (1) This Act may be called the Airlines Regulatory Authority Act, 2005.

(2) It shall extend to the whole of India.

(3) It shall come into force at once.

(4) It shall apply to all airline companies, including private and foreign airline companies operating to and from India and providing commercial helicopter/aircraft services on payment basis.

Definitions.

2. In this act, unless the context otherwise requires,—

(a) "Authority" means the Airlines Regulatory Authority set up under section 3 of this Act; and

(b) "prescribed" means prescribed by rules made under this Act.

3. The Central Government shall constitute an authority to be known as the Airlines Regulatory Authority to regulate the operations of various airline companies in the country.

Airlines
Regulatory
Authority.

4. The Authority shall consist of—

Composition
of the
Authority.

(i) a Chairman, to be appointed by the Central Government;

(ii) three other Members, one each representing airline companies, the Department of Commerce and the Department of Industry, to be nominated by the Central Government; and

(iii) the Secretary of Ministry of Civil Aviation shall be the *ex officio* secretary of the Authority.

5. The Authority shall perform the following functions, namely:—

Functions of
the Authority.

(i) prescribing guidelines regarding functioning of all airline companies operating in the country;

(ii) formulation of guidelines regarding services provided by various airline companies in the country;

(iii) fixing fares for various domestic/foreign flights without putting any restrictions on the power of the airline companies to fix fares lower than that fixed by the Authority;

(iv) prescription of guidelines regarding minimum facilities to be provided to passengers without restricting the power of the airline companies to provide more facilities than prescribed by the Authority;

(v) issuing guidelines regarding payment of compensation to passengers in case of delay in the scheduled flights;

(vi) prescribing facilities to be provided to passengers by airline companies in case of delay/cancellation of flights due to reasons beyond the control of airline companies;

(vii) prescribing norms regarding fees including license fees for the usage of the airport;

(viii) prescribing compensation for loss of luggage, baggage or awarding compensation to passengers in case of delay in transit of luggage or baggage;

(ix) issuing guidelines regarding insurance cover for passengers;

(x) issuing guidelines regarding prior information to passengers in case of delay/cancellation or rescheduling of flights; and

(xi) any other function that may be entrusted to it by the Central Government.

6. In case of violation of any of the guidelines framed by the Authority by any airline company, the registration or licence issued to the airline company shall automatically stand suspended for a minimum period of six months.

Penalty for
violation of
the Act.

7. The Central Government may, by notification in the official gazette, make rules for carrying out the provisions of this Act.

Power to
make rules.

STATEMENT OF OBJECTS AND REASONS

There has been mushroom growth of private airlines in the country as a result of economic liberalization. Since there is no mechanism regulating for the functioning of airlines, they are not functioning properly and are harassing the passengers by undue delay/cancellation of scheduled flights. The constitution of regulatory body in aviation sector is required to mitigate the problems being faced by the airlines passengers.

Hence this Bill.

NEW DELHI;
May 13, 2005.

CHANDRAKANT KHAIRE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the setting up of an Airlines Regulatory Authority. Clause 4 of the Bill provides for the composition of the authority. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of rupees ten crore would be involved.

A non-recurring expenditure of rupees one crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. The rules will relate to matters of detail only. The delegation of legislative power is of a normal character.

G. C. MALHOTRA,
Secretary-General.